

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **July 11, 2006**

AGENDA ITEM NO.: 13

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Condemnation Of Property Owned By Hilary V. Brooks And George U. Brooks, Jr.**

RECOMMENDATION:

Adopt a resolution authorizing the condemnation of property owned by Hilary V. Brooks and George U. Brooks, Jr. for right of way and easements regarding the Old Graves Mill Road improvement project.

SUMMARY:

The proposed realignment and improvements of Old Graves Mill Road requires obtaining right of way and easements on property located at 214 Old Graves Mill Road, owned by Hilary V. Brooks and George U. Brooks, Jr., Tax Map No. 249-03-005. The City has been unsuccessful in finalizing a settlement with the property owners. The appraised value of the property is \$1,000.00.

In order to maintain the schedule for this project, the contractor needs to begin construction on this segment of the roadway. Condemnation of the property will allow the contractor to begin construction.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

Steve Lawson, Real Estate Manager, 455-3945

ATTACHMENT(S):

Resolution

Appraisal of property by Robert G. Gentry, MAI

Aerial Site Location Map

Contour Map

Plat

Photographs along Old Graves Mill Road at location site and subject property

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS BY THE CITY OF LYNCHBURG TO ACQUIRE FEE SIMPLE RIGHT-OF-WAY, A SLOPE EASEMENT AND A TEMPORARY CONSTRUCTION EASEMENT ON A PARCEL OF LAND IN THE CITY OF LYNCHBURG, DESIGNATED AS TAX MAP NO. 249-03-005, FOR IMPROVEMENTS TO OLD GRAVES MILL ROAD.

WHEREAS, in the opinion of the Council of the City of Lynchburg, it is hereby, authorized and directed to institute and prosecute condemnation proceedings in accordance with the provisions of Section 38-B(2) of the Charter of the City of Lynchburg (Acts of Assembly, 1968, Chapter 22, page 49), to acquire the fee simple title, to acquire a slope easement and a temporary construction easement on the party owned by Hilary V. Brooks and George U. Brooks, Jr., as described according to a plat made by the Department of Public Works, Engineering, for the City of Lynchburg, Virginia, dated March 29, 2006, and designated as File No. B-1832, a copy of which is on file in the City Engineer's Office, as follows:

WHEREAS, in order to do so, it will be necessary to acquire fee simple right-of-way, a slope easement and a temporary construction easement across said property;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the City Attorney be, and he is hereby, authorized and directed to institute and prosecute condemnation proceedings in accordance with the provisions of 38-B(2) of the Charter of the City of Lynchburg to acquire the fee simple title, a slope easement and a temporary construction easement on the property owned by Hillary V. Brooks, and George U. Brooks which property is described in the hereinabove mentioned plat as follows:

Fee Simple Right-of-Way

Beginning at a point on the eastern right-of-way line of Old Graves Mill Road at the intersection of said Old Graves Mill Road with Tax Map No. 249-03-005 and Tax Map No. 249-03-004, thence S 75° 56' 56" W a foot more or less to a point; thence N 13° 41' 52" E 3.82 feet; thence N 75° 56' 56" E 17.34 feet to a point; thence on a curve with a radius of 1230.00 feet for a length of 54.44 feet to a point; thence S 14° 13' 01" E 50.07 feet to a point; thence S 75° 48' 36" W 5.97 feet to the point of beginning being 0.013 acre.

Slope Easement

Beginning at a point on the eastern right-of-way line of Old Graves Mill Road at the intersection of Tax Map No. 249-03-005 and Tax Map No. 249-03-004, thence N 75° 56' 56" E 5.97 feet to the true point of beginning; thence N 75° 56' 56" E 25.00 feet to a point; thence N 14° 13' 01" W 50.15 feet to a point; thence on a curve with a radius of 1255.00 feet for a length of 54.36 feet to a point; thence S 75° 56' 56" W 25.03 feet to a point; thence on a curve with a radius of 1230.00 feet for a length of 54.44 feet to a point; thence S 14° 13' 01" E 50.07 feet to the point of beginning being 2612.85 square feet.

Temporary Construction Easement

Beginning at a point on the eastern right-of-way line of Old Graves Mill Road on the dividing line between Tax Map No. 249-03-005 and Tax Map No. 249-03-004, thence N 75° 56' 56" E 30.97 feet to the true point of beginning, thence N 14° 13' 01" W 50.15 feet to a point; thence on a curve with a radius of 1265.00 feet for a length of 54.36 feet to a point; thence N 75° 56' 56" E 10.01 feet to a point; thence on a curve with a radius of 1265.00 feet for a length of 54.33 feet to a point; thence S 81° 47' 57" E 30.89 feet to a point; thence S 72° 05' 01" E 41.37 feet to a point; thence S 12° 26' 08" E 16.59 feet to a point; thence S 75° 56' 56" W 73.07 feet to the true point of beginning being 3272.09 square feet.

2. That in the opinion of the City Council, a public necessity exists for the acquisition of said right-of-way, the slope easement and temporary construction easement.

3. That in order to provide the total estimated necessary funds to compensate the owners of the property for the fee simple right of way, slope easement, and temporary construction easement to be acquired, and for any damages, the sum of which is determined to be \$1,000.00, which has been heretofore appropriated, and the Director of Finance be, and he is hereby, authorized and directed when so directed by the City Attorney to present a check for deposit with the Clerk's Office of the Circuit Court for the City of Lynchburg, Virginia, for such condemnation proceedings.

That the City Attorney is fully authorized and directed to act for and on behalf of the City of Lynchburg in agreeing or disagreeing with the owners of said property upon the compensation to be paid therefore within the limits of the funds provided herein for that purpose and the Mayor, Vice Mayor, or City Manager is authorized to sign, in the name of the City, any proper petitions, pleadings, or necessary documents to be filed or presented at any stage of the proceedings.

Adopted:

Certified:

Clerk of Council

083L

ESTIMATED VALUE OF PROPERTY ACQUIRED:

The right of way and easements needed for the proposed project includes a narrow strip of land in fee for the proposed right of way which is approximately 3.82 feet to 5.97 feet deep and extends across the front of the property along the existing right of way of Old Graves Mill Road. This area is shown in blue on the attached drawing and contains 0.013 acre. The existing prescriptive easement for Old Graves Mill Road contains 0.032 acre but has no contributing value to the property as it is part of a public roadway.

A temporary construction easement is also being acquired which is shown in orange and contains a total area of 3,272.09 square feet or 0.075 acre. This is an easement to allow construction workers on the subject property to perform the necessary work. It is also acquired to allow the reconstruction of the entrance into the property. Upon completion of work this easement will be eliminated. Construction is estimated to take approximately 12 months.

Within the temporary construction easement and adjacent to the proposed right of way is a slope easement which contains 2,612.85 square feet or 0.060 acre. This is a permanent easement which allows the City of Lynchburg to maintain the fill slope adjacent to the new roadway.

Within these areas is the gravel driveway leading into the site which will be replaced during construction. There are also several large trees which are considered to have some contributing value over and above the value of the land at this time. They are considered to have some nominal value. The buildings are located some distance away and will not be affected.

Value of the proposed areas being acquired and the various improvements located within these areas is noted as follows.

VALUE OF ACQUISITION:

Fee Right of Way:		
0.013 Ac. @ \$12,000 =	\$	156
Prescriptive Easement:		
0.032 Ac. - No		
Contributing Value =		0
Slope Easement:		
0.060 Ac. @ \$12,000 x 50% =		360
Temporary Construction Easement:		
0.075 Ac. @ \$12,000 x 15% =		<u>135</u>
Total Land Acquired =	\$	651
Improvements Acquired:		
Various Hardwood Trees:		
Nominal Value =	\$349	
Total Improvements Acquired =		<u>349</u>
Total Value of Property Acquired =		\$1,000

CONDITIONS AND RESULTS OF THE TAKING:

The remaining property will be almost of the exact same size as only 0.013 acre was acquired in fee leaving a remaining site of 16.997 acres. The easements located on the front of the property will not affect the remainder. The temporary easement is of a short duration during road construction and will be lifted when the project is complete. The slope easement extends back 25 feet and is for maintenance of the banks along the new roadway. This easement will not affect any future development of the property. Due to the size and shape of the site, as well as its highest and best use for future residential development, it will be necessary to install a street from Old Graves Mill Road into the property for development. The increased grades along the new roadway in front of this property will not affect the future development of the site. No damage is expected to result to the property from any cause.

SCHEDULE OF BEFORE AND AFTER VALUES

A. Value of Entire Property:

Land:

17.01 Ac. @ \$12,000 = [R] \$204,000

Improvements:

(1) 1.5-Story Bldg. -
Estimated = \$15,000
(2) Garage Bldg. -
Estimated = 2,500
(2) Site Improvements:
(a) Gravel Drive:
Estimated = 1,000
(b) Landscaping -
Estimated = 1,500

Total Value of Improvements: 20,000

Total Value of Entire Property. \$224,000

B. Value of Property Acquired:

Land:

Fee Right of Way:

0.013 Ac. @ \$12,000 = \$ 156

Prescriptive Easement:

0.032 Ac. - No
Contributing Value = 0

Slope Easement:

0.060 Ac. @ \$12,000 x 50% = 360

Temporary Construction Easement:

0.075 Ac. @ \$12,000 x 15% = 135

Total Land Acquired = \$ 651

Improvements Acquired:

Various Hardwood Trees:
Nominal Value = \$349

Total Improvements Acquired = 349

Total Value of Property Acquired. \$ 1,000

C. Value of Remainder Before:
(A-B) or (\$224,000-\$1,000) \$223,000

D. Value of Remainder After:

Land:

16.997 Ac. @ \$12,000 = \$203,964
Less Easements of \$495 = \$203,469

Total Land After = \$203,469

Improvements:

(1) 1.5-Story Bldg. -
Estimated = \$15,000
(2) Garage Bldg. -
Estimated = 2,500
(2) Site Improvements:
(a) Gravel Drive:
Estimated = 1,000
(b) Landscaping -
Estimated = 1,151

Total Improvements After = 19,651

No Contributing Value = 0

Total Value of Remainder After. \$223,120

E. Damages or Enhancement:

None - difference due to rounding. = \$ -0-

ASSUMPTIONS AND LIMITING CONDITIONS:

1. As agreed upon with the client prior to the preparation of this appraisal, this is a Limited Appraisal because it invokes the Departure Provision of the Uniform Standards of Professional Appraisal Practice. As such, information pertinent to the valuation has not been considered and/or the full valuation process has not been applied. Depending on the type and degree of limitations, the reliability of the value conclusion provided herein may be reduced.
2. This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's files. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.
3. No responsibility is assumed for legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated in this report.
4. The property is appraised free and clear of any or all liens and encumbrances unless otherwise stated in this report.
5. Responsible ownership and competent property management are assumed unless otherwise stated in this report.
6. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
7. All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
8. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
9. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless otherwise stated in this report.
10. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in this appraisal report.
11. It is assumed that all required licenses, certificates of occupancy, or other legislative or administrative authority from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.
12. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.
13. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report.
14. The appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. The appraiser's descriptions and resulting comments are the result of the routine observations made during the appraisal process.

15. Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.
16. Any proposed improvements are assumed to be completed in a good workmanlike manner in accordance with the submitted plans and specifications.
17. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
18. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event, only with proper written qualification and only in its entirety.
19. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news sales, or other media without prior written consent and approval of the appraiser.

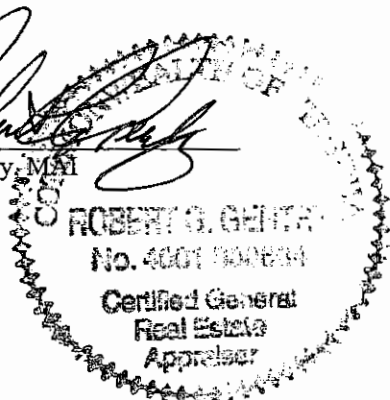
CERTIFICATION:

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
5. This appraisal was not based on a requested minimum valuation, specific valuation, or the approval of a loan.
6. My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
7. I have made a personal inspection of the property that is the subject of this report.
8. No one provided significant professional assistance to the person signing this report.
9. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
10. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
11. As of the date of this report, I have completed the requirements of the continuing education program of the Appraisal Institute.
12. The market value of the total acquisition from this property as of June 15, 2006, was:

ONE THOUSAND DOLLARS
(\$1,000).

Robert G. Gentry, MAI



Virginia License #4001 000664
Certified General Real Estate Appraiser
Expires 12/31/2007